CHAPTER EIGHT Conformance, Monitoring and Deficiency Plans

CONFORMANCE

The CMA is responsible for determining conformance—whether or not local governments are complying with the requirements of the CMP.[2] The CMA compares the monitoring information (discussed in the next section) provided by local governments to the requirements of the adopted CMP. Reasons for non-conformance could include inadequate monitoring information, inadequate deficiency plan development, or failure to follow through with the program requirements for level-of-service, site design guidelines, capital improvements and land-use analysis. In addition to these requirements, each city and the county must contribute its apportioned share to the support of the administrative costs of the CMA.

If the CMA finds a local jurisdiction in non-conformance, it will notify the local jurisdiction, which then has 90 days to remedy the area(s) of non-conformance. If the local jurisdiction does not affect a remedy, the CMA will notify the State Controller to withhold the Proposition 111 fuel tax funds to that jurisdiction, and the jurisdiction will not be eligible to receive funding for projects through the federal Surface Transportation Program or Congestion Mitigation and Air Quality Program, or the State Transportation Improvement Program.

If, over the next 12 months, the CMA determines that the jurisdiction is in conformance, the withheld Proposition 111 funds will be released. If after the 12-month period the city or County has not conformed, the withheld Proposition 111 funds will be released to the CMA for projects of regional significance included in the CMP or deficiency plans.

The CMA is responsible for ensuring local government conformance with four elements of the CMP: the trip-reduction program, the land-use analysis program, payment of membership dues, and level-of-service standards.[3]

Travel-Demand Management Element

Local jurisdictions must adopt site-design guidelines and implement congestion-reducing capital projects to meet the travel-demand management requirements.

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[2] If the city of Oakland is found to be out of conformance, the Port of Oakland's projects will be treated as a city of Oakland project for purposes of CMP requirements and state statutes.

[3] California Government Code Section 65089.3

The site-design guidelines must enhance transit/pedestrian/bicycle access. Each jurisdiction must submit a Site Design Guidelines Checklist by September 1 of each year specifying that they have adopted and are implementing such guidelines to encourage the use of alternative modes of travel.

Further, they must undertake capital improvements that contribute to congestion management and emissions reduction. Each jurisdiction is required to participate in the Transportation Fund for Clean Air, Surface Transportation Program, Congestion Mitigation and Air Quality and other funding programs and to submit projects that support bicycle, pedestrian, transit or carpool use. Details are provided in Chapter 5, Travel-Demand Management Element. (See Appendix D for the Travel-Demand Management Checklist.)

Land-Use Analysis Program

The CMA is required to develop a program that will analyze the impacts and determine mitigation costs of land-use decisions on the regional system. Local governments are responsible for implementation of the program. The program approach is described in Chapter 6, Land-Use Analysis Program.

Local jurisdictions are responsible for approving, denying, or altering projects and land-use decisions and are required to determine land-development impacts on the Metropolitan Transportation System and formulate appropriate mitigation measures commensurate with the magnitude of the expected impacts.

Level-of-Service Standards

Local governments are accountable for meeting level-of-service standards as described in the CMP. If such standards are not met, a deficiency plan must be developed to describe how jurisdictions plan to meet the adopted level-of-service standards at the deficient segment or intersection, as well as how level of service of the system and air quality improvements will be achieved.[4]

Capital Improvement Program

The CMA is required to prepare and biennially update a Capital Improvement Program aimed at maintaining or improving transportation service levels as described in Chapter 7, Capital Improvement Program. Each city, the county, transit operators and Caltrans will provide input to these biennial updates

MONITORING

Monitoring provides feedback to determine whether the CMP's objectives are being met. The system performance data collected in the monitoring process can be used to adjust either the CMP or the actions of the local governments to meet legislative requirements. Monitoring also provides information that can be used to update the countywide travel model and database; adjust travel-demand management measures,

[4] California Government Code Section 65089.3(d)

[6] The Port of Oakland is considered a governmental subdivision of the city of Oakland. Should a deficiency occur on a segment within the city of Oakland, the city shall be responsible for preparation of the deficiency plan. The Port's participation in the deficiency plan process shall be agreed upon by the city of Oakland and the Port prior to the preparation of the deficiency plan.

transit standards, and level-of-service standards; and to determine whether it will be necessary for a local government to develop a deficiency plan.

Outlined below is the monitoring that each jurisdiction should undertake to document to the CMA that it conforms to CMP requirements. Table 17 lists the schedule and basic requirements for monitoring. Further action by the CMA may be necessary to develop rules, procedures and other data requirements for monitoring and conformance.

Table 17 — Conformance and Monitoring

SCHEDULE OF LOCAL GOVERNMENT AND TRANSIT OPERATOR REQUIREMENTS
Designated Roadway System By June 30, 2008 submit a list of potential CMP-designated routes based on Spring 2008 24-hour traffic counts.
Roadway Level-of-Service Standards (CMA)* In even numbered years, monitor the level of service on the designated system and report to the CMA by May 1 relative to consistency with the adopted standards.
Performance Element (CMA/Transit Operators/Cities/County) By September 30 of each even numbered year, submit its short-range transit plan and report to the CMA relative to attainment of the established standards. As part of this report, identify the resources necessary to continue to maintain this transit performance level during the succeeding ten years. August 1 of each year - Submit available transportation performance measurement data to CMA for use in the Annual Transportation Performance Report.
Trip Reduction and Travel Demand (CMA) By September 1 of each year - submit the completed Site Design Guidelines Checklist to the CMA certifying that the Guidelines have been adopted and implemented.
Land-Use Analysis Program (Cities/County) By September 1 of each year - Demonstrate to the CMA that the program is being carried out.
Capital Improvement Program (Cities/County/Transit Operators/Caltrans/Port of Oakland/Others) By February 1 of each odd numbered year - Submit a list of projects intended to maintain or improve the level of service on the designated system, and to maintain transit performance standards. The Travel-Demand Management Element requires that local jurisdictions consider inclusion in the CIP, projects which support alternative modes.

* The CMA is currently monitoring level-of-service standards. If the cities, county or Caltrans assume responsibility, monitoring will be accomplished through a self-certification process involving the local jurisdictions and/or Caltrans and the CMA. See Chapter 3 for details relating to methods, frequency, etc.

Roadway Level-of-Service Standards

The CMA currently monitors level-of-service standards. If the cities, county or Caltrans assume this responsibility, monitoring may be accomplished through a self-certification process involving the local

jurisdictions and/or Caltrans and the CMA. In this event, the responsible agency will annually monitor the level of service on segments of the CMP-designated system under its jurisdiction. Where a segment falls within two or more jurisdictions, the jurisdiction responsible for monitoring the segment is the jurisdiction with the greatest segment mileage. If the local jurisdictions choose to conduct monitoring of level-of-service on CMP roadways, the process described below shall be followed.

The jurisdiction must conduct a p.m. peak period (4 p.m. to 6 p.m.) and a.m. peak period (7 a.m. to 9 a.m.) travel-speed sampling on a non-holiday Tuesday, Wednesday or Thursday and analyze level of service based on that data consistent with the methods for determining level of service outlined in the Chapter 3, Level-of-Service Standards. Studies on the impact of proposed development may supply some of the data (provided the sampling is done during the timeframes specified above), thereby reducing the need for data collection.

If the level of service is determined to be A, B or C for any year that is monitored, the monitoring frequency will then become every other monitoring period, until such time as the segment is found to operate at LOS D. Any segment determined to operate at LOS D, E, or F should then be monitored every study year.

If a segment not included in an infill opportunity zone is found to not meet the adopted level-of-service standards (see Chapter 3) in p.m. peak period, a deficiency plan must be prepared in accordance with CMP requirements. The a.m. peak monitoring is for informational purposes only.

Performance Measures

Although there are no statutory requirements regulating performance element monitoring, the CMA intends to continue preparing a transportation performance report annually. The report will summarize current performance data, highlight any significant changes in performance and provide broad analyses of the results and any implications for policy and investment decisions made by the CMA.

DEFICIENCY PLANS

Deficiency plans provide a method for local governments to focus on areas where congestion problems are keeping system performance from meeting adopted standards. They provide an opportunity to analyze the causes of the problems and determine whether they can be fixed by local improvements or if it would be best to employ measures that will improve overall system efficiency and air quality. Deficiency plans are required where level-of-service standards are not being met.

Deficiency plans also provide local governments with the opportunity to give priority to system and non-capital mitigation methods to relieve congestion. The statutes specifically point to improved public transit service and facilities, improved non-motorized transportation facilities, high-occupancy vehicle facilities, parking cash-out programs and transportation control measures.

Table 18 — Roadway Segments Year of Deficiency Plan
Below is a summary of the roadway or ramp segments that require or have required deficiency plans.

STATUS	JURISDICTION	SEGMENT	YEAR REQUIRED
Deficiency Plan approved by CMA Board November 2001.	Alameda County (participating jurisdictions: Oakland, San Leandro, Dublin, Pleasanton, Livermore)	I-580 Westbound from Center Street to I-238	2000
Deficiency Plan approved by CMA Board November 2001 and is being implemented	Fremont (participating jurisdiction: Newark)	Mowry Avenue Eastbound from Peralta Boulevard to SR 238/Mission Boulevard	2000
Deficiency Plan approved by CMA Board November 1999 and has been implemented, LOS Standard restored.	Berkeley (participating jurisdictions: Albany, Oakland, Emeryville)	San Pablo Avenue Northbound from Allston Way to University Avenue	1998
Deficiency Plan approved by CMA Board November 1999 and has been implemented, LOS Standard restored	Berkeley	University Avenue from San Pablo Avenue to Sixth Street	1998
Deficiency Plan approved by CMA Board November 1999 and is being implemented.	Oakland (participating jurisdictions: Berkeley, Alameda)	The freeway connection between SR 260 eastbound (The Posey Tube) and northbound I-880	1998

Deficiency Plan Requirements

The need for deficiency plans is identified following the biennial level-of-service monitoring of the CMP roadway network. Deficiency plans are required once it is recognized that a CMP segment is not meeting the adopted level-of-service standard after allowable exemptions. At a minimum, deficiency plans must include:

- Identification and analysis of the causes of the deficiency.
- A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.
- A list of improvements, programs or actions (and estimates of their costs) that will measurably improve multimodal performance of the system, and contribute to significant improvements in air quality.
- An action plan of the most effective implementation strategies to maintain the minimum level-of-service standards at the deficient segment, or to improve the current and future level of service of the system and contribute to significant air quality improvements. The action plan must include implementation strategies, a specific implementation schedule, and a description of its funding and implementation strategies. Special consideration for state or federal requirements must be taken into account when determining the feasibility of the action plan. Improvements funded through the CMP Capital Improvement Program, whether having local or system impact, must not degrade air quality.

Local Government Responsibilities

Local governments are responsible for preparing and adopting deficiency plans—proposed methods for bringing areas that do not meet level-of-service standards up to par. However, they will need to consult with the CMA, Caltrans, local transit providers, and BAAQMD as they prepare their deficiency plans. Local public-interest groups and members of the private sector may also have an interest in the development of deficiency plans.

During the process of developing the plan, the local agency will need to consider whether it is possible to make physical improvements to the deficient segment. It may not be possible to do so for a number of reasons, including cost, availability of real estate, public opposition and air quality plan conflicts.

In developing the deficiency plan, both local and system alternatives must be considered and described. Local governments and the CMA should examine the impact of the proposed deficiency plan on the CMP system. An action plan to implement the chosen alternative must also be provided.

Multi-jurisdictional Deficiency Plans

If it is determined that more than one local jurisdiction is responsible for causing a deficient segment or intersection, all responsible local jurisdictions shall participate in the development of a deficiency plan to be adopted by all participating local jurisdictions. The local jurisdiction in which the deficiency occurs shall have lead responsibility for developing the deficiency plan and for coordinating with other local jurisdictions that have an impact on the system.[6]

Jurisdictions must participate if traffic to or from that jurisdiction, either an origin or destination at the deficient segment, represents 10 percent, as estimated by a CMA-certified model, of the capacity of the freeway/roadway.

Additional policies are:

- In order to eliminate any gaps and to ensure continuity in the planning process, a jurisdiction that does not meet the 10 percent threshold shall be required to participate in the deficiency plan process if it is surrounded by jurisdictions which meet the threshold for participation;
- All participating jurisdictions shall adopt identical deficiency plan action plans.
- The percent contribution of traffic specifically does not imply a commensurate financial share of the Deficiency Plan Action Plan;
- All owners/operators of a deficient segment of freeway or roadway along with transit operators shall be invited to participate in the deficiency plan process;
- A jurisdiction shall have the right to appeal as depicted in the Multi-jurisdictional Deficiency Plan Appeal Process (Figure 13); and
- For purposes of determining the capacity of a freeway or roadway the following criteria shall be used for multi-jurisdictional deficiency plans unless a local jurisdiction can demonstrate an alternative capacity:

  Freeways: 2,000 vehicles/lane/hour
  2-lane highways: 1,400 vehicles/lane/hour
  Arterials: 800 vehicles/lane/hour

If a local jurisdiction responsible for participating in a multi-jurisdictional deficiency plan does not adopt the deficiency plan in accordance with the schedule and requirements outlined above, that jurisdiction shall be considered in non-conformance with the CMP.[7]

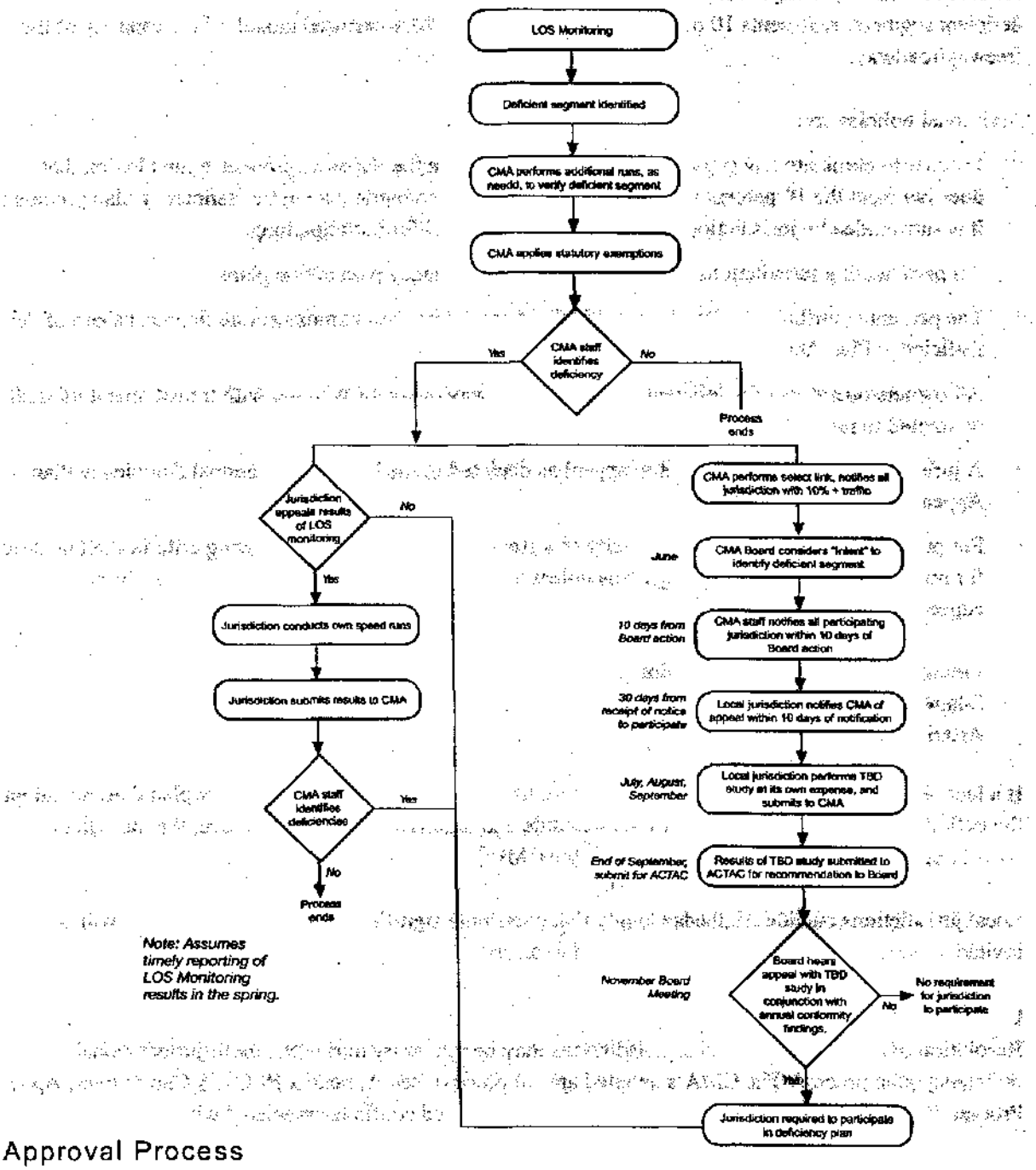
Local jurisdictions outside Alameda County that contribute significantly to a deficiency plan will be invited to participate, but cannot be compelled to do so.

Conflict Resolution

Resolution of conflicts among local jurisdictions may be necessary during the multi-jurisdictional deficiency plan process. The CMA's adopted appeal process (see Appendix B- CMA Committees, Appeal Process and Administration), shall be used for any unresolved conflicts associated with multi-jurisdictional deficiency plans.

[7] California Government Code Section 65089.4(e)

Figure 13 — Multi-jurisdictional Deficiency Plan Appeal Process



Approval Process

Local governments are required to adopt deficiency plans at a "noticed" public hearing—one for which legal notices have been advertised. Local governments should provide sufficient notice of their intention to adopt deficiency plans to allow for members of the public to review and comment on it. Copies of the plans should be made available for review by interested agencies, groups and citizens.

After the local government has adopted the deficiency plan, it is forwarded to the CMA. The CMA must hold a noticed public hearing within 60 days of receiving the adopted plan, at which time it may either accept or reject the deficiency plan in its entirety. The CMA cannot modify the deficiency plan. The CMA will use the information provided by the program monitoring reports and consider the following items when reviewing deficiency plans:

- Consistency with the CMP, *Countywide Transportation Plan, Regional Transportation Plan,* Regional Transportation Improvement Program, general plans, and air quality plans;
- Adequacy of the deficiency analysis;
- Effectiveness of proposed improvements;
- Linkage of proposed improvements to level-of-service change; and
- Impacts of proposed plans to other segments of the regional system.

The CMA will seek the input of local agencies during the review of deficiency plans. If the CMA rejects a deficiency plan, it must give a clear statement as to its reasons for rejection and should also provide recommendations for improvements.

Approved or Required Deficiency Plans

San Pablo Avenue/I-80 Corridor Plan

On April 24, 1997, the CMA Board recognized the San Pablo/I-80 Corridor Plan as a basis for a future deficiency plan. The deficiency plan would apply to the CMP network within the following sub-area of the San Pablo Avenue/
I-80 Study limits, including the freeway ramps and future University Avenue/I-80 HOV ramp:

- North — Alameda/Contra Costa County line,
- South — 14th St. to western boundary of Mandela Pkwy. extending north to the eastern I-80 right-of-way,
- East — Martin Luther King Jr. Way/San Pablo Avenue, Marin, east side of San Pablo Ave., and
- West — the eastern boundary of the I-80 right-of-way.

I-880 Strategic Plan

On January 20, 2000, the CMA Board similarly recognized the I-880 Strategic Plan as a basis for a future deficiency plan. The plan would apply to the CMP network within the study limits, which are:

- the I-880 Cypress Freeway connection in the North,
- SR 237 in Milpitas in the South,
- the San Francisco Bay in the west, and
- I-580/SR 238 and I-680 in the east.

Complete Deficiency Plan Guidelines

In January 1993, the CMA Board approved deficiency plan guidelines. The guidelines, which were developed with significant input from ACTAC, describe the process, timelines and acceptable methodologies to be followed by local jurisdictions in developing deficiency plans. The full text of the guidelines can be obtained by contacting the CMA offices. The guidelines, as adopted, are incorporated by reference into the 2005 CMP, including all their requirements and specifications.

CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN

The 2005 Congestion Management Program conforms to MTC's criteria for consistency with the Regional Transportation Plan. The projects and programs shown in the Capital Improvement Program meet the following goals and objectives of the Regional Transportation Plan:

Safety - Improve safety for system users

Ensuring the safety of travelers is a priority for all governmental agencies engaged in transportation, whether the trip is by car, transit, bike or walking. Protecting transportation facilities from terrorism is also a new safety area for federal, state and local law enforcement officials and requires the cooperation of all major Bay Area transportation agencies.

Reliability – A Reliable Commute

Travelers will benefit by having an expanded range of choices for making trips based on their personal requirements for travel time, cost, convenience and reliability. In addition to expanded choices, traffic management and operations strategies, increased use of new technologies, improved connections, and greater information and predictability of trip time provide important benefits to travelers.

Access to Mobility

MTC must consider the needs of all travelers in order to determine equitable distribution of mobility benefits. Removing barriers to mobility for older adults, the disabled, low–income persons and school children is a shared responsibility among many organizations, including transportation and social service agencies.

Livable Communities – A Region of Vibrant Neighborhoods

Transportation and land-use decisions affect regional land use patterns as well as opportunities within communities for biking, walking or using transit. MTC supports more development around major transit lines and in other infill locations within the urban core to increase regional housing stock and improve transportation options, especially through incentives to local jurisdictions.

Clean Air – Clearing the Skies

The federal and state governments have set standards to maintain healthy air – certain types of transportation investments can help reduce the number of vehicle trips and lower emissions through more efficient traffic flows on freeways and local streets. New challenges include reducing small particulate matter and further collaboration with the Central Valley.

Efficient Freight Travel – Moving Goods to Market

Innovation in intermodalism has transformed the movement of freight, but ultimately the region's major freight corridors will need expansion. Key issues to be addressed include congestion on vital routes, trip time reliability within the region and into /out of the region, and the cost of moving freight.

Additional consistency requirements are identified in the most appropriate chapters in the CMP. Conformance with the CMP/MTS network can be found in Chapter 2; Resolution 3434 Regional Transit Expansion Program is acknowledged in Chapter 6; regional programming policies and principles are found in Chapter 7; and travel demand model consistency is found in Chapter 9. Table 19 in Chapter 10 summarizes consistency requirements and the 2005 CMP's compliance.

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